

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ALFRED GARCIA,

Plaintiff,

vs.

No. 07-cv-782-JC-RLP

DISCOVER FINANCIAL SERVICES, LLC,
EXPERIAN INFORMATION SOLUTIONS, INC.
TRANS UNION, LLC and
EQUIFAX INFORMATION SERVICES, LLC.

Defendants.

**PLAINTIFF'S MOTION AND BRIEF FOR ORDER TO SHOW CAUSE TO
THIRD PARTY CHASE MANHATTAN BANK, N.A.**

Plaintiff Alfred Garcia moves the Court to issue an order to show cause to Third Party Chase Manhattan Bank, N.A.

This lawsuit concerns the transfer of a credit card balance from Mr. Garcia's Discover credit card to his Chase Manhattan Bank credit card, Defendant Discovery Financial Services, LLC's failure to credit Mr. Garcia's credit card account, and the resulting reporting of inaccurate information on Mr. Garcia's credit report. Discover claims that Chase never transferred the funds.

Chase has produced documents that relate to Mr. Garcia's account, in response to a subpoena *duces tecum* served in November 2007. However, the documents produced by Chase did not show whether Chase actually transferred the funds to Discover. The only document that records the transfer is Mr. Garcia's Chase credit card statement.

The information and documents related to the balance transfer are highly relevant to Mr. Garcia's claims and cannot be obtained except by subpoena and deposition of a Chase

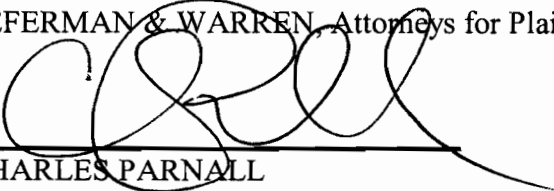
representative. Mr. Garcia served a Notice of Rule 30(b)(6) Deposition *Duces Tecum* on Chase on February, 27, 2008. Despite a deadline of March 18, 2008, Mr. Garcia has not received any new documents from Chase as of the time that Mr. Garcia files this motion. Chase has had since November to locate information and documents related to the balance transfer.

Further, Chase refuses to produce information regarding the identity or location of its 3.(b)(6) representative, despite a deposition set for March 21, 2008. Mr. Garcia's counsel has made numerous attempts to obtain the identity and location of the Chase representative. *See*, Exhibit A, affidavit. Chase has not filed with the Court any motion for a protective order, motion to quash the subpoena, or any other similar motion.

Mr. Garcia requests that the Court issue an order to show cause to Chase, by which the Court sets a hearing at which Chase must explain its failure to comply with the subpoena. Mr. Garcia would agree to a telephone hearing on this matter. Counsel for Chase - Aneta Povlovich - has indicated that she is also available for a telephone hearing. She can be reached at (312) 732-6483.

Respectfully submitted:

FEFERMAN & WARREN, Attorneys for Plaintiff



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I CERTIFY that I served a copy of the foregoing pleading by mailing and faxing the same to Aneta Povlovich, attorney for Chase Manhattan Bank, N.A., at 7610 West Washington St., Mail Code IN1-4054, Indianapolis IN, 46231, and faxed to (312) 732-6483; to Marc Kirkland and Tiffany Hawkins, attorneys for Defendant Trans Union, LLC, at Strasburger & Price, LLC., 2801 Network Blvd., Suite 600, Frisco, Texas 75034, and faxed to (469) 227-6575; Charles J. Vigil, at Rodey Dickason, Sloan, Akin & Robb, P.A., attorneys for Defendant Trans Union, LLC, at P.O. Box 1888, Albuquerque, New Mexico 87103-1888, and faxed to (505) 768-7395; Corbin Hildebrant, attorney for Defendant Discovery Financial Services, LLC., at Corbin Hildebrant, P.C., 1400 Central Ave SE, Suite 2000, Albuquerque, New Mexico 87106-4852, and faxed to (505)998-6628; Tamar Tal Yudenfreund, attorney for Defendant Experian Information Solutions, Inc., at Jones Day, 3 Park Plaza, Suite 1100, Irvine, California 92614-2592, and faxed to (949) 553-7539; and to Stephanie Cope, attorney for Defendant Equifax Information Services, LLC., at King & Spalding, 1180 Peachtree St. NE, Atlanta, Georgia 30309-3521, and faxed to (404) 572-5100; on March 19, 2008.



CHARLES PARNALL